

**Minutes**  
**Air Pollution Control Board**  
Indiana Government Center South  
Conference Room C  
402 West Washington Street  
Indianapolis, Indiana

**October 3, 2001**  
1:02 p.m.

1. Mr. John Walker, Chairman, called the meeting to order. He noted that a quorum was present.

**CALL TO ORDER**  
**QUORUM**

2. Chairman Walker introduced the board members.

**INTRODUCTION OF**  
**MEMBERS**

Present: Mr. John Walker, Chairman  
Mr. Thomas Anderson  
Mr. Chris Horn  
Dr. James Miner  
Dr. Phil Stevens  
Mr. David Benshoof  
Mr. Randy Staley  
Mr. Howard Cundiff, Proxy, State Board of Health  
Mr. John Bacone, Proxy, Department of Natural Resources (left early)  
Ms. Melanie Solmos, Proxy, Lieutenant Governor

Also present were Mr. Timothy Method, Deputy Commissioner; Ms. Janet McCabe, Assistant Commissioner; and Ms. Kathy Watson, Branch Chief. Others are recorded on a separate sheet and made a part of this record. A court reporter was present and a transcript is available for review.

3. Ms. McCabe stated that EPA approved two rules: the NOx rule and amendments to IDEM's inspection and maintenance rules to exempt newer cars from having to have emissions testing performed.

**REPORTS**

Mr. Paul Dubenetzky, Permits Branch Chief, presented the Office of Air Quality Annual Permit Report. The statistics and fiscal information presented were based on the fiscal year that ended June 30, 2001 and are summarized on page five (5) of the transcript.

Ms. McCabe informed the board that EPA was expected to sign the redesignation of the Louisville, Kentucky and Clark and Floyd counties, Indiana area to attainment of the one-hour ozone standard. She also noted the board members received a region by region color-coded chart showing ozone data from last summer.

4. Chairman Walker introduced the August 1, 2001 Air Pollution Control Board minutes. **MINUTES**

Dr. Miner moved to adopt the August 1, 2001 Air Pollution Control Board's Minutes. Mr. Horn seconded. The motion passed unanimously.

5. Chairman Walker introduced Exhibit 1A, the rule as preliminarily adopted, and Exhibit 1B, the rule as preliminarily adopted and proposed for final adoption with suggested changes, into the record of the hearing.

**PUBLIC HEARING  
FOR FINAL  
ADOPTION OF  
AMENDMENTS TO  
TITLE 326 ARTICLES  
2, 3, 4, 5, 6, 7, 8, 9, 10,  
11, 12, 14, and 15, Title  
V and Prevention of  
Significant  
Deterioration Rules and  
Permit Exemptions**

Ms. McCabe described the three main purposes of the rulemaking. The first purpose was to accomplish the intent of the state law that directed the air pollution control board to adopt rules to clarify requirements for relatively small sources who are not required to get permits and to simplify the requirements for them knowing whether they did or did not require permits. The statute directed the board to adopt these rules by January 1, 2002. Ms. McCabe stated the other two purposes of the rule are to address deficiencies that EPA has identified in IDEM's two major permitting programs, the Title V Operating Permit Program and the Prevention of significant Deterioration (PSD) Program. Ms. McCabe stated that IDEM is working to make sure that there are no deficiencies in its Title V program so that it can receive full federal approval. In order to achieve a fully approved PSD Program, EPA identified a list of rule changes that were needed. Ms. McCabe stated that this rulemaking is specifically intended to address inadequacies that EPA has identified in the federal permitting programs that Indiana implements on behalf of EPA. She also stated that throughout the course of this rulemaking, IDEM has spent a lot of time working with EPA and making sure that the language that is brought before the board today will be acceptable to EPA.

Ms. McCabe informed the board that the rule as preliminarily adopted and proposed for final adoption with suggested changes is the one in the board packet with one exception, EPA had one minor last minute change that is reflected in the handout.

Mr. Dubenetzky highlighted key changes made since the rule was preliminarily adopted. He stated that proposed rule with suggested changes that was sent to board members includes many changes, but they were primarily intended to clarify the proposed rule. The purpose of the one-page, two-sided handout distributed to the board members was to summarize changes to the final rule. Based on further discussions with the public and with EPA, IDEM recommended that certain additional changes be made prior to final adoption. The suggested changes are described in the official transcript.

Mr. Bernie Paul, spoke on behalf of Eli Lilly, the Indiana Manufacturers Association, and other companies that endorsed his statement to the board. These companies formed a coalition called the CASE (Clean Air and Strong Economy) Coalition, whose members include Cinergy, General Electric, General Motors, Ispat Inland and Wabash Alloys. Mr. Paul expressed support of IDEM's efforts to obtain full approval for the Title V operating permit program and SIP approval for the PSD program. Mr. Paul stated that the rule that was being considered for final adoption had the potential to cost Eli Lilly and other companies thousands or millions of dollars, or it could prevent these companies from getting a new product to the market or meet a time from getting the product to the market. He noted that during the June, 2001, air pollution control board's meeting a few of their concerns were addressed. Mr. Paul also presented other issues that were not resolved to their satisfaction as well as new issues that were not anticipated until after the board packets were mailed. Mr. Paul distributed four pages of proposed amendments to the board members. Mr. Paul suggested adopting the rule with the changes that he had suggested and then working with EPA after the fact to convince them they should not disapprove the program or holding off on final adoption and resolve the issues with EPA before the rule is final adopted. Mr. Paul offered the following changes to the rule: eliminate inconsistency and confusion in the rule; promote pollution control projects and pollution prevention projects; and minimize unnecessary liability for sources.

Ms. McCabe addressed specific changes that Mr. Paul suggested in the handout presented to the board. Ms. McCabe advised the board that IDEM had no objection to Mr. Paul's three specific wording changes. Ms. McCabe stated that the department objected to the deletion of the language of 326 IAC 2-2.5-1(d)(4).

Mr. Tony Sullivan, representing Bethlehem Steel and Knauf Fiberglass suggested specific language changes to the board. First, Mr. Sullivan agreed with Mr. Bernie Paul's suggestions on removing 326 IAC 2-2.5-1(d)(4). Second, pollution control project exemptions for non-utilities, which require that the source owner or operator who submits a demonstration or submits a pollution control project and gets it approved, based on the fact that it is

environmentally beneficial, must keep records after the fact to demonstrate that the project did not result in an emissions increase. Mr. Sullivan suggested that this requirement conflicts with the purpose of a pollution control project exemption. Third, Mr. Sullivan suggested deletion of the word “documents” in 326 IAC 2-1.1-9.5 for clarification. Mr. Sullivan’s last comment addressed 326 IAC 2-1.1-9.5(b) regarding what terms in old permits are superceded.

Mr. Tom Rarick, Kerimeda Environmental Consultants, expressed support of the previous commentors’ concerns regarding the capping of emissions in 326 IAC 2-2.5-1(d)(4) and specific requirements of the rulemaking.

Mr. Bernie Paul, expressed concerns with the capping of emissions and production at pre-existing levels. Mr. Paul asked the board to strike out the language in 326 IAC 2-2.5-3(a). Mr. Paul suggested that the board strike out part of the language within the rulemaking; or not adopt the rule as it was presented at the meeting.

Chairman Walker announced that the amendments to rules 326 IAC 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 14 and 15 would be voted upon individually.

Mrs. Solmos moved to adopt the proposed amendments to the “rule as preliminarily adopted and proposed for final adoption with suggested changes, included within the board packet as presented.” Mr. Cundiff seconded. The motion passed unanimously.

Mr. Cundiff moved to adopt an amendment to 326 IAC 2-2-1(x)(2)(H)(i) so that the language would read, “the Commissioner and U.S. EPA determine that such addition, replacement or use,” and to strike the words “is not,” and add the words, “renders the unit less,” and then continue, “environmentally beneficial.” Mr. Anderson seconded. The motion passed unanimously.

Mr. Stevens moved to adopt an amendment to 326 IAC 2-1.1-3(c), striking the words “requirement to obtain a registration, permit, modification approval, or permit revision required under this article,” and replacing them with “new source requirements in 326 IAC 2-5.1-2 for registrations, new source requirements in 326 IAC 2-5.1-3 for permits, modification approval requirements in 326 IAC 2-7-10.5, and permit revision requirements in 326 IAC 2-6.1-6 and 326 IAC 2-8-11.1,” and then continuing on with the remaining language of the section, “unless the construction or modification.” Mr. Staley seconded. The motion passed unanimously.

Mr. Cundiff moved to adopt an amendment to 326 IAC 2-2.5-1 subsection (a): the amendment would strike the words “emissions unit,” in the second line, and would strike the words “if the conditions in subsection (b) through (e) of this section are met,” in the last line. It would insert two words, so that the section would read, “The modification, addition or replacement of a pollution control project at an existing source shall not constitute a major modification under 326 IAC 2-2-1 (x).” The amendment for subsection (b) would strike the word “implementation” at the end of the second line,

with the new section reading as follows: “A pollution control project that causes a significant net emission increase pursuant to 326 IAC 2-2 must be approved by the Commissioner and the U.S. EPA, if necessary under the SIP, prior to beginning actual construction.” The second sentence of the subsection would remain the same. Mr. Bacone seconded. The motion passed unanimously.

Mr. Staley moved to adopt an amendment to 326 IAC 2-2.5-1(c)(2), striking all of the language and replacing it with the following language: “The pollution control project may not cause a significant net increase in representative actual annual emissions of any regulated pollutant that causes or contributes to: (A) a violation of any national ambient air quality standard; (B) a violation of PSD increments; or (C) an adverse impact on any air quality related value at any class-one area.” Mr. Cundiff seconded. The motion passed unanimously.

Mrs. Solmos moved to strike the entire section at 326 IAC 2-2.5-3, “Use of representative actual annual emissions.” Mr. Cundiff seconded. The motion passed unanimously.

Mr. Benshoof moved to delete 326 IAC 2-2.5-1(d)(4). Mr. Horn seconded. The vote was 8 - yes. Mr. Anderson voted no. Mr. Walker abstained from voting.

Mr. Anderson moved to final adopt the rule as amended. Mr. Bacone seconded. The motion passed 10 - 0.

6. Chairman Walker introduced Exhibit 2A, rule as preliminarily adopted, and 2B, rule as preliminarily adopted and proposed for final adoption with suggested changes, 326 IAC 1-1-3.5, establishing references to and definition of the Compilation of Air Pollution Emission Factors AP-42 and Supplements; amendments to 326 IAC 1-1-3, concerning references to the Code of Federal Regulations (CFR), to update any references to the CFR in Title 326 to mean the July 1, 2000, edition; amendments throughout Title 326 to change any incorporation by reference of the Federal Register (FR) to its CFR citation published in the July 1, 2000 edition of the CFR, into the record of the hearing.

Ms. Watson informed the board that the rule was preliminarily adopted in August 2001. Ms. Watson stated that the changes that were presented to the board at this meeting were stylistic changes requested by the Legislative Services Agency. Ms. Watson asked the board to final adopt the amendments to rules 326 IAC 1-1-3.5 and 326 IAC 1-1-3.

Ms. Solmos moved to adopt the amendments to rules 326 IAC 1-1-3.5, and 326 IAC 1-1-3. Mr. Anderson seconded. The motion passed unanimously.

Mr. Anderson moved to final adopt rules 326 IAC 1-1-3.5 and 326 IAC 1-1-3. Mr. Staley seconded. The motion carried 9-0.

7. The next meeting was tentatively scheduled for Thursday, January 10, 2002 at 1:30 p.m, Indiana Government Center South, Indianapolis, Indiana in Conference Room A.
8. Mr. Benshoof moved to adjourn the meeting. Mr. Cundiff seconded. The vote was unanimous. Chairman Walker adjourned the meeting at 3:54 p.m.

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John Walker, Chairman

*These minutes were taken from the October 3, 2001 transcript, and were written on November 29, 2001, by Karol T. Chuma, Office of Air Quality.*

**PUBLIC HEARING  
FOR FINAL ADOPTION  
OF NEW RULES 326  
IAC 1-1-3.5, establishing  
references to and  
definition of the  
Compilation of Air  
Pollution Emission  
Factors AP-42 and  
Supplements;  
amendments to 326 IAC  
1-1-3, concerning  
references to the Code of  
Federal Regulations  
(CFR), to update any  
references to the CFR in  
Title 326 to mean the July  
1, 2000, edition;  
amendments throughout  
Title 326 to change any  
incorporation by  
reference of the Federal  
Register (FR) to its CFR  
citation published in the  
July 1, 2000 edition of the**

**NEXT MEETING**

**ADJOURNMENT**